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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,982	11/19/2003	Binie V. Lipps	FWLPAT019US	6836

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John R. Casperson
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EXAMINER

UNGAR, SUSAN NMN

ART UNIT	PAPER NUMBER
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1642

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05/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1. The Amendment filed February 21, 2007 in response to the Office Action of November 15, 2006 is acknowledged and has been entered. Previously pending claims 1, 2, 4-5, 13, 15, 17, 18, 20-22 have been amended. Claims 1-23 have been withdrawn from further consideration by the examiner under 37 CFR 1.142(b) as being drawn to non-elected inventions for the reasons set forth below.
2. The claims as currently constituted are directed to a process comprising bringing together a reagent containing antibodies made against a mixture of proteomic cancer markers from different cell lines with human saliva sample and determining whether an immunological reaction has occurred wherein the process further comprises providing a plurality of colonies, each colony being from a different cancer cell line, wherein each colony of cells is formed from a publicly available cancer cell line, wherein the cell lines comprise a breast cancer cell line, a liver cancer cell line, a colon cancer cell line and an ovarian cancer cell line which differs in method steps, objectives, reagents used, response variables, criteria for success from the originally presented and examined invention which is drawn to a process comprising bringing together a reagent containing antibodies made against a mixture of proteomic cancer markers with human saliva sample and determining whether an immunological reaction has occurred in the assay sample wherein the process further comprises providing A (emphasis added) colony of cancer cells, wherein the colony of cells is formed from A (emphasis added) publicly available cancer cell line, wherein the cell line is selected from the group consisting of A (emphasis added) breast cancer cell line, a liver cancer cell line, a colon cancer cell line and an ovarian cancer cell line.

In particular, the two inventions differ in method steps given that they require assay with antibodies against different cell lines which have different

proteomic cancer markers. Further, different reagents are clearly used because of the requirement to assay with antibodies against different cell lines. In addition the criteria for success is different because the method requires that proteomic markers from different cell lines must be identified. Further, the objective of the invention has changed because the assay required the determination of immunological reaction against proteomic cancer markers of different cell lines. Indeed, it is clear that the response variables are different, again because the originally filed and examined invention was not drawn to the determination of proteomic marker from different cell lines. Because these inventions are distinct for the reasons given above, had the instant claims been originally presented, along with those which were in fact originally presented they would have been restricted to a group separate from that examined because of their recognized divergent subject matter.

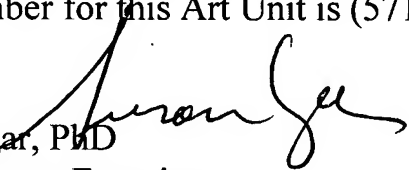
Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-23 are withdrawn from consideration as being directed to a non-elected invention. See 37 C.F.R. 1.142(b) and M.P.E.P. 821.03.

3. The amendment filed February 21, 2007 amending all of the claims to an invention not originally presented is nonresponsive (see MPEP 821.03). The remaining claims are not readable on the originally presented invention for the reasons set forth above. Applicant is given a ONE MONTH time limit or until the expiration of the response period set in the last Office action, whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT WILL BE GRANTED UNDER EITHER 37 CAR 1.136(a) OR (b) but the period for

response set in the last office action may be extended up to a maximum of SIX MONTHS.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shanon Foley, can be reached at 571-272-0898. The fax phone number for this Art Unit is (571) 272-8300.


Susan Ungar, PhD
Primary Patent Examiner
April 16, 2007